

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

ERNEST CLARK HICKS,

Plaintiff,

V.

BANK OF AMERICA N.A., Beneficiary,
QUALITY LOAN SERVICE CORP. OF
WASHINGTON, Trustee, MORTGAGE
ELECTRONIC REGISTRATION
SYSTEMS, INC., Nominee

Defendants.

NO. 2:16-cv-00019-SAB

ORDER RE PLAINTIFF'S MOTION FOR TEMPORARY RESTRAINING ORDER

Before the Court is Plaintiff's Motion for Temporary Restraining Order, ECF No. 5, and companying motion to expedite. ECF No. 4. Also before the Court is Plaintiff's Expedited Motion for Deposit into Court Registry. ECF No. 6. Specifically, plaintiff requests a temporary restraining order preventing the February 5, 2016 Trustee's Sale of Plaintiff's real property. Plaintiff maintains that Defendants acted in bad-faith and in violation of several Washington state laws, the Fair Debt Collections Practices Act, and the Home Affordable Modification Program. Plaintiff filed suit in this Court on January 22, 2016, ECF No. 1, and

**ORDER RE PLAINTIFF'S MOTION FOR TEMPORARY RESTRAINING
ORDER # 1**

1 filed this motion on January 25, 2016. A summons was issued to Defendants on
 2 the same day, but does not appear to have been served yet.

3 On January 28, 2016, Plaintiff and Defendant Quality Loan Service
 4 Corporation of Washington (“QLS”) filed a Stipulation of Nonparticipation as to
 5 QLS. ECF No. 8. The stipulation states that Plaintiff will not seek any monetary
 6 damages against QLS, and QLS will not be required to participate in the litigation
 7 in this matter, though it will still be bound by any Order or Judgment of this Court.
 8 In addition to setting forth QLS’s participation in this litigation, the Stipulation
 9 indicates that QLS, as the Trustee, will continue the Trustee’s Sale of Plaintiff’s
 10 property from February 5, 2016 to March 18, 2016. Because Plaintiff and QLS
 11 stipulate to the continuation of the Trustee’s Sale past the date in which this Court
 12 could enjoin the sale pursuant to a Temporary Restraining Order under Fed. R.
 13 Civ. P. 65(b), the motion for a TRO is moot—as is the accompanying Motion to
 14 Expedite. Instead, an in-person hearing on a preliminary injunction will be held
 15 prior to March 18, 2016. Additionally, without a TRO, the Court need not require
 16 Plaintiff to submit a security payment to the Court’s registry. Ongoing payment to
 17 the Court’s registry may be readdressed during the hearing for a preliminary
 18 injunction.

19 Accordingly, **IT IS HEREBY ORDERED:**

- 20 1. Plaintiff’s Motion to Expedite, ECF No. 4, is **denied as moot**.
- 21 2. Plaintiff’s Motion for a Temporary Restraining Order, ECF No. 5, is
 denied as moot.
- 22 3. Plaintiff’s Expedited Motion for Deposit into Court Registry, ECF No. 6,
 is **DENIED**.
- 23 4. An in-person hearing shall be held on a motion for preliminary
 injunction, subject to service of a motion and accompanying documents
 on the defendant at 9:00 a.m., on February 19, 2016, unless the parties
 stipulate to an extension of the hearing.

**ORDER RE PLAINTIFF’S MOTION FOR TEMPORARY RESTRAINING
 ORDER # 2**

1 5. Any motion for preliminary injunction shall be filed by Plaintiff no later
2 than February 5, 2016. Defendants' Response shall be due by February
3 12, 2016. Plaintiff's reply, if any, shall be filed by February 17, 2016.

4 **IT IS SO ORDERED.** The District Court Executive is hereby directed to

5 file this Order and provide copies to counsel.

6 **DATED** this 29th day of January 2016.



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10 Stanley A. Bastian
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12 Stanley A. Bastian
13 United States District Judge
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**ORDER RE PLAINTIFF'S MOTION FOR TEMPORARY RESTRAINING
ORDER # 3**